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BEFORE THE ARIZONA CORPORATION COMMISSION

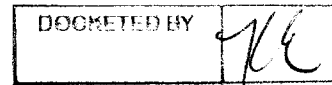
Arizona Corporation Commission

COMMISSIONERS

DOCKETED

AUG 19 2015

DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY, AN ARIZONA
CORPORATION, TO EXTEND ITS EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY AT CASA GRANDE, PINAL
COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0469

DECISION NO. 75706

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 68607, 71475, 73220,
and 74781

Open Meeting
August 9 and 10, 2016
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On March 23, 2006, the Commission issued Decision No. 68607, approving the application of Arizona Water Company ("AWC" or "Company") for an extension of its water Certificate of Convenience and Necessity ("CC&N"). The Decision approved the extension of AWC's CC&N to include areas referred to as parcels 1, 3, 4, 5, 6, 7, and 8. Pursuant to Commission Decision No. 68607, Arizona Water was required to file the following:

- a copy of the Approval to Construct ("ATC") issued by the Arizona Department of Environmental Quality ("ADEQ") for the facilities needed to serve each of the parcels within two years of the effective date of the Decision;
- a copy of one developers' Certificates of Assured Water Supply ("CAWS") for each of the parcels within two years of the effective date of the Decision; and
- a copy of the fully executed main extension agreements ("MXAs") for water facilities for each parcel within two years of the effective date of the Decision.

1 2. On February 12, 2007, AWC filed all of the compliance items required for Parcel 6. At
2 that time, compliance items still remained for Parcels 3, 4, 5, and 7.¹

3 3. On January 28, 2008, AWC filed a request for an extension of time, until March 23,
4 2010, to comply with Decision No. 68607. AWC requested an extension of the deadline to obtain the
5 MXAs, ATCs, and CAWS for the remaining parcels.

6 4. On February 19, 2008, the Commission's Utilities Division ("Staff") filed a response
7 recommending approval of AWC's request for an extension of time, until March 23, 2010.

8 5. On March 11, 2008, by Procedural Order, AWC's request for an extension of time was
9 approved for the Company to file copies of the remaining compliance items by March 23, 2010.

10 6. On October 2, 2009, AWC filed a second request for an extension of time, until March
11 23, 2012, to comply with Decision No. 68607. AWC's extension request stated that: additional time
12 was needed due to the housing market decline;² the Arizona Department of Water Resources
13 ("ADWR") had not completed the approval process for the Company's Physical Availability
14 Demonstration ("PAD") application; approval of the PAD is a "precursor" to obtaining a CAWS; and,
15 because the extension area is located within the Pinal Active Management Area ("AMA"), developers
16 cannot plat a subdivision without a CAWS. AWC submitted letters from the current owners of Parcels
17 3, 4, 5 and 7, showing the owners' continued desire to develop their properties and to receive water
18 service from AWC. AWC further stated that denial of its request to extend the time deadline would be
19 harmful to a recovery of the housing market in the area.

20 7. On November 27, 2009, Staff filed a response to AWC's second request for an extension,
21 of time to comply with Decision No. 68607. In its response, Staff expressed concerns over both the
22 number of times AWC had requested that the time deadlines be extended and the length of time to
23 comply. Nonetheless, Staff recommended granting AWC's request based on the Commission's recent
24 discussions regarding the length of extension requests. According to Staff, in deciding whether a
25

26 ¹ Decision No. 68607 did not require any compliance items for Parcel 1. The Decision granted an Order Preliminary for
27 Parcel 8, and AWC was required to obtain a consent, franchise, or permission from the City of Eloy, within one year of the
date of the Decision. AWC was unable to satisfy the requirement for Parcel 8 and the Order Preliminary became null and
void.

28 ² AWC's request noted that housing permits had dropped from an annual peak of 11,371 in 2005 to 3,104 in 2008, for single
family residences issued in Pinal County.

1 request for an extension of time should be granted, the Commission would consider the condition of
2 the housing market and recession; the need to comply with state agency requirements; the need for
3 long-term planning; and the complexity of the issues involved in the request for an extension of time.

4 8. On January 26, 2010, the Commission issued Decision No. 71475 and found that AWC
5 had filed a timely request for an extension of the time deadlines contained in Decision No. 68607.
6 Based on the following: the recent housing market decline; the current economic recession; the length
7 of time needed for developers and utilities to meet state agency requirements; and the continuing desire
8 expressed by property owners in the extension area to have AWC provide water utility service in the
9 extension area, the Commission granted AWC an extension of time, until March 23, 2012, to comply
10 with Decision No. 68607.

11 9. On October 5, 2011, AWC filed a third request for an extension of time until March 23,
12 2014, to file the required documentation as required by Decision Nos. 68607 and 71475 for parcels 3,
13 4, 5, and 7.

14 10. On December 25, 2011, and February 28, 2012, the Company filed two addendums to
15 its third request for an extension of time to comply with Decision Nos. 68607 and 71475 and included
16 copies of letters from property owners or their representatives who expressed their continued desire for
17 service to their properties by AWC.

18 11. On April 26, 2012, Staff filed its response to the Company's request for an extension of
19 time to meet the Commission's compliance requirements for parcels 3, 4, 5, and 7 and noted the
20 ongoing problems associated with real estate development in Arizona.

21 12. Staff, in its response, related that AWC had obtained the approval of ADWR for a PAD
22 for the Company's Pinal Valley system (which includes parcels 3, 4, 5, and 7). The Company described
23 the PAD as "an important precursor to, and a necessary requirement for obtaining a CAWS" and stated
24 that, in conjunction with ADEQ's approval, the combination represents sufficient compliance on the
25 CAWS condition reflected in Decision No. 68607. Additionally, the Company provided letters from
26 property owners in parcels 3, 4, 5, and 7 reiterating their requests for service and their intent to develop
27 within the approximate timeframe of the requested extension.
28

1 13. On June 5, 2012, the Commission issued Decision No. 73220 which approved AWC's
2 request for an extension of time, until March 23, 2014, to file compliance items pursuant to Decision
3 No. 68607. Based on Staff's analysis of AWC's ongoing efforts to proceed with the extension of its
4 CC&N during a severe economic downturn, the Commission granted AWC additional time to provide
5 the required copies of the MXAs, ATCs and CAWS for parcels 3, 4, 5, and 7.

6 14. On July 16, 2012, AWC docketed the required ATCs for parcels 3, 4, 5, and 7, satisfying
7 the ATC requirement and leaving the MXAs and CAWS as the remaining compliance requirements
8 for this case.

9 15. On March 10, 2014, AWC filed its fourth Request for Additional Time for Compliance
10 Filing, seeking an extension of time until March 23, 2016, to comply with Decision No. 68607.
11 According to AWC, an extension of time was needed as a result of the severe economic conditions that
12 battered the Arizona real estate market, resulting in the delay of residential and mixed-use development.
13 AWC included six letters from property owners or property owner representatives, documenting their
14 continuing desire to obtain water service from AWC.

15 16. On July 1, 2014, AWC docketed a Supplement to Request for Additional Time for
16 Compliance Filing. The filing included the final two ownership letters relating to the extension area.

17 17. On July 9, 2014, Staff filed a memorandum stating that it did not object to AWC's
18 request for an extension of time, until March 23, 2016, to comply with Decision No. 68607. Staff
19 recommended that the time extension be granted given the difficult development landscape that existed
20 in Arizona and the property owners' continued requests for service.

21 18. On October 24, 2014, the Commission issued Decision No. 74781, approving AWC's
22 request for an extension of time, until March 23, 2016, to file compliance items pursuant to Decision
23 No. 68607. Based on Staff's analysis of AWC's ongoing efforts to proceed with the extension of its
24 CC&N during a severe economic downturn, the Commission granted AWC additional time to provide
25 the required copies of the MXAs and CAWS for parcels 3, 4, 5, and 7.

26 19. On December 23, 2015, AWC filed a Request for Additional Time for Compliance
27 Filing ("Request"), until March 23, 2018, to file the required documentation as required by Decision
28 Nos. 68607, 71475, 73220, and 74781, for parcels 3, 4, 5, and 7. The Request states an extension of

1 time is warranted given the ongoing delay of real estate development due to the economic downturn.
2 The Request also notes that AWC currently provides water services to 90 customers within the
3 extension area with hopes of serving additional customers in the near future. Included with the Request
4 were three letters from property owners or property owner representatives that indicated their
5 continuing desire to obtain water service from AWC.

6 20. On March 1, 2016, the City of Eloy ("City") filed a letter: objecting to AWC's request
7 for an extension of time for compliance filings; asserting the City was committed to serving parcels 2,
8 3, and 8,³ and requesting that parcel 3 be removed from AWC's extension area.

9 21. On April 5, 2016, AWC filed a Response to Objection and Supplement to Request for
10 Additional Time for Compliance Filing ("Response"). In its Response, AWC updated its extension
11 request to March 23, 2026 and attached additional property owners' requests for service letters. The
12 Response also stated that the City's request to remove Parcel 3 from the extension area will harm the
13 property owners because AWC has the ability to provide water service as its water main fronts parcel
14 3 whereas the City has no water facilities within a half-mile of the property.

15 22. On May 3, 2016, AWC filed a Second Supplement to Request for Additional Time for
16 Compliance Filing that included an updated request for service from the remaining landowner.

17 23. On May 13, 2016, the City filed a Notice of Substitution of Counsel for City of Eloy
18 and Client Consent.

19 24. On July 15, 2016, Staff filed a memorandum stating that it does not object to AWC's
20 request for an extension of time, until March 23, 2026, to comply with Decision No. 68607. Staff
21 stated that it recommends the time extension be granted given the difficult development landscape that
22 has existed in Arizona and the property owners' continuing requests for service but recommended that
23 no further extensions of time be granted.

24 25. Based on the economic downturn impacting real property development in the extension
25 area and the letters from 100 percent of the affected property owners demonstrating their continuing
26 need for service, we find AWC's request for an extension of time to comply with Decision No. 68607

27 ³ Parcel 3 is the only relevant area within the subject CC&N at issue because the property owners of parcel 2 withdrew their
28 original request for service and parcel 8 was removed from the proposed extension area when AWC was unable to obtain
the required Franchise Agreement from the City within the timeframe provided for in Decision No. 68607.

1 is reasonable and should be granted.

2 26. Although we are not adopting Staff's recommendation that no further time extensions
3 should be granted for compliance with Decision No. 68607, we will put the Utility on notice that any
4 further requests for extensions of time to comply must demonstrate extraordinary circumstances exist
5 that warrant additional time.

6 **CONCLUSIONS OF LAW**

7 1. Arizona Water Company is a public service corporation within the meaning of Article
8 XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

9 2. The Commission has jurisdiction over Arizona Water Company and the subject matter
10 of the request for an additional extension of time to comply with Commission Decision No. 68607.

11 3. Arizona Water Company's request for an extension of time, until March 23, 2026, to
12 comply with the requirements outlined in Decision No. 68607, is reasonable and should be granted.

13 **ORDER**

14 IT IS THEREFORE ORDERED that Arizona Water Company's deadline to comply with the
15 compliance requirements initially set forth in Commission Decision No. 68607, and modified by
16 Decision Nos. 71475, 73220, and 74781, as discussed herein, shall be extended to March 23, 2026.

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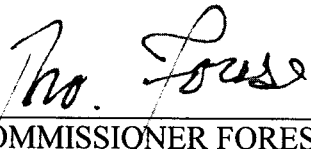
IT IS FURTHER ORDERED that Arizona Water Company is hereby put on notice that any additional requests for extensions of time shall demonstrate extraordinary circumstances.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

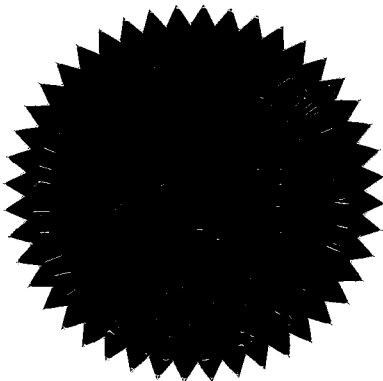

CHAIRMAN LITTLE


COMMISSIONER STUMP



COMMISSIONER FORESE


COMMISSIONER TOBIN


COMMISSIONER BURNS



IN WITNESS WHEREOF, I, JODI A. JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 19th day of August 2016.


JODI A. JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SP:aw

SERVICE LIST FOR:

ARIZONA WATER COMPANY

DOCKET NO.:

W-01445A-05-0469

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